

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

IGNACIO SALCIDO,

Plaintiff,

v.

MOON, et al.,

Defendants.

No. 1:23-cv-01606-NODJ-SAB (PC)

ORDER TERMINATING ACTION  
PURSUANT TO PLAINTIFF'S NOTICE OF  
VOLUNTARY DISMISSAL

(ECF No. 16)

Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to Bivens v. Six Unknown Agents, 403 U.S. 388 (1971).

The instant action was filed on November 15, 2023. (ECF No. 1.) On December 28, 2023, Plaintiff filed a motion for a preliminary injunction. (ECF No. 8.) On January 2, 2024, Findings and Recommendations were issued to deny Plaintiff's motion for a preliminary injunction. (ECF No. 9.) On January 25, 2024, Plaintiff filed objections to the Findings and Recommendations and a separate notice of appeal. (ECF Nos. 10, 11.)

On September 25, 2023, Plaintiff filed a civil rights action in this Court which was assigned case number 1:23-cv-01395-JLT-SAB (PC), Salido v. Bureau of Prisons. In that case, on November 8, 2023, the Court screened the complaint, found no cognizable claim, and granted Plaintiff thirty days to file an amended complaint. (ECF No. 10.) After Plaintiff failed to respond

1 to the Court's order, an order to show cause why the action should not be dismissed was issued on  
2 December 19, 2023. (ECF No. 11.) Plaintiff failed to respond to the order to show cause, and  
3 Findings and Recommendations recommending dismissal of the action were issued on January  
4 26, 2024. (ECF No. 12.) On February 7, 2024, Plaintiff filed objections to the Findings and  
5 Recommendations. (ECF No. 13.) In his objections, Plaintiff stated that he submitted an  
6 amended complaint on or about November 15, 2023, which was assigned and opened as a new  
7 case in case number 1:23-cv-01395-JLT-SAB (PC), Salido v. Bureau of Prisons. (Id. at 1.)  
8 Indeed, a review of the complaint filed in case number 1:23-cv-01395-JLT-SAB (PC), Salido v.  
9 Bureau of Prisons, reflects that the complaint was submitted as an amended complaint and should  
10 have been filed in this case and not opened as a new civil rights action. (ECF No. 1.) Plaintiff's  
11 objections filed in case number 1:23-cv-01395-JLT-SAB (PC), Salido v. Bureau of Prisons made  
12 clear that this action was improvidently opened as Plaintiff's amended complaint filed on  
13 November 15, 2023 was intended to be filed as an amended complaint in 1:23-cv-01395-JLT-  
14 SAB (PC). Therefore, the Court directed the Clerk of the Court to file the November 15, 2023  
15 amended complaint in plaintiff's earlier action, 1:23-cv-01395-JLT-SAB (PC), and noted the  
16 instant action would be terminated as improvidently opened after the appeal is resolved.

17 On February 19, 2024, Plaintiff filed a motion to dismiss the instant action. (ECF No.  
18 16.) On March 1, 2024, Plaintiff's appeal was dismissed for lack of jurisdiction. (ECF No. 15.)

19 Accordingly, because this action was improvidently opened and Plaintiff seeks to  
20 voluntary dismiss the action, it is HEREBY ORDERED that the instant action is terminated by  
21 operation of law pursuant to Rule 41(a)(1)(A)(i).

22  
23 IT IS SO ORDERED.

24 Dated: March 5, 2024

  
UNITED STATES MAGISTRATE JUDGE